

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT  
ADDICTION/PERSONAL INJURY  
PRODUCTS LIABILITY LITIGATION

Case No. 4:22-MD-03047-YGR-PHK  
MDL No. 3047

This Document Relates to:  
**ALL ACTIONS**

# **CORRECTED JOINT STATEMENT REGARDING BELLWETHER TRIAL PROTOCOL AND PROPOSED TRIAL SCHEDULES**

The Parties submit this Joint Statement regarding the bellwether trial protocol in this MDL. The Parties' proposed bellwether case management schedules are attached hereto as **Exhibit A** (Plaintiffs' proposed schedule) and **Exhibit B** (Defendants' proposed schedule).

### All Plaintiffs' Position:

In accordance with the Court's instructions at the Case Management Conference on January 26, 2024 and the subsequent Case Management Order No. 8 (ECF No. 581), all Plaintiffs believe it is in the interest of the Parties to move forward on negotiating a bellwether protocol as quickly possible, together with a commensurate trial schedule. To that end, all Plaintiffs prepared positions on a proposed trial schedule and PI/SD Plaintiffs prepared a positions on a bellwether selection process. Because the State Plaintiffs maintain that their case, when heard, should be considered as one cohesive whole, rather than disaggregated, the State Plaintiffs have not proposed a bellwether selection process for their case. All Plaintiffs have worked in good faith

1 with Defendants in both a formal meet and confer setting and through multiple informal  
 2 conversations amongst the parties to facilitate compromise and agreement where possible  
 3 throughout the week since the Court ordered the Parties submit a Joint Statement on a Bellwether  
 4 Protocol, in advance of the deadline for this submission. During the meet and confer between the  
 5 parties on January 30th, only one day after the Court entered its Order instructing the parties to  
 6 discuss bellwether procedures, PI/SD Plaintiffs walked through their proposed bellwether plan  
 7 and answered Defendants' questions about it. Defendants did not share any positions with PI/SD  
 8 Plaintiffs at the time. All Plaintiffs have been forthright with Defendants regarding the Plaintiffs'  
 9 understanding of the Court's guidance and regarding all Plaintiffs' positions, as reflected below.  
 10 All Plaintiffs look forward to receiving further guidance from the Court and will continue to meet  
 11 and confer with Defendants as appropriate.

12 **Defendants' Position:**

13 On January 29, 2024, the Court ordered the Parties to submit by the date of this Joint  
 14 Statement only "proposed trial schedules," with a separate instruction to "begin discussing the  
 15 selection process for bellwether trials, and to the extent feasible, include selection process  
 16 proposals in their filings." Case Management Order No. 8, ECF No. 581, at 3 & n.2. The MDL  
 17 Parties began those discussions only three days before their proposed trial schedules were due,  
 18 and Plaintiffs shared their detailed proposed Bellwether Order with Defendants only one day  
 19 before the date of this filing. While Defendants are prepared to submit their proposals on certain  
 20 aspects of bellwether selection—including the number of cases that should be included in  
 21 Bellwether Discovery and Trial Pools and ultimately selected for bellwether trials—it is not  
 22 feasible, and the Court did not order the Parties, to negotiate and submit a detailed proposed  
 23 Bellwether Protocol by the date of this submission. Nevertheless, Defendants have attempted, in  
 24 the limited time they have had to consider Plaintiffs' proposals, to set forth below their tentative  
 25 positions on each of those proposals, but submit that it would be premature to resolve differences  
 26 in the Parties' positions at this time. Defendants ask that the Court instead order the Parties to  
 27 conduct further conferrals on a Bellwether Order and report back to the Court at a later time with  
 28 a joint or competing proposed order(s).

1       **I.       Purpose**

2           The purpose of a “bellwether” case is to enhance and accelerate the MDL process by  
 3           providing the Parties and Court with outcomes that strive to be “representative” of the  
 4           overarching issues within the overall MDL and that aid the development of the parties’ disputes.  
 5           Thus, bellwether cases are those that can illustrate and inform the parties and the Court of  
 6           important issues in the litigation. Bellwether trials also provide the parties with an opportunity to  
 7           develop litigation frameworks that can be used in cases remanded to the originating courts.

8           The Parties shall participate in the bellwether process in good faith and in accordance with  
 9           these principles.

10       **II.      Bellwether Selection**

11       Eligibility for Bellwether Selection Pools:

12       **PI Plaintiffs’ Proposal:**

13           Any Personal Injury Plaintiff who 1) has named Meta as a Defendant; 2) alleges  
 14           addiction; 3) alleges a) an eating disorder (anorexia, bulimia, or binge eating disorder), and/or b)  
 15           self-harm (self-harm, suicide attempt(s) or suicide); and 4) whose case was filed in or transferred  
 16           to this Court and who has submitted a Plaintiff Fact Sheet (PFS) by the deadline for already-filed  
 17           cases under the Personal Injury PFS Implementation Order (approximately May 13, 2024<sup>1</sup>) will  
 18           be included in the Personal Injury Plaintiff Bellwether Selection Pool.

19       **PI/SD Plaintiffs’ and Defendants’ Proposal Regarding SD Plaintiffs:**

20           Any School District Plaintiff, excluding those alleging RICO claims, whose case was filed  
 21           in or transferred to this Court and who has submitted a School District Plaintiff Fact Sheet by the  
 22           deadline for already-filed cases under the Personal Injury PFS Implementation Order  
 23           (approximately May 13, 2024) will be included in the School District Plaintiff Bellwether  
 24           Selection Pool.

25  
 26       <sup>1</sup> Pursuant to the Proposed PFS Implementation Order (ECF No. 551-1), Personal Injury Plaintiff  
 27           PFSs shall be served within 105 days from entry of the Implementation Order. The Parties note  
 28           that in CMO 8, the Court Granted the Proposed Implementation Order but the Order’s entry is not  
          yet reflected on the Docket, so the dates noted here in are approximate

## **Defendants' Proposal Regarding PI Plaintiffs:**

By \_\_\_\_\_ [date to be set by the Court], the Parties shall submit proposals for eligibility criteria for Personal Injury Bellwether Selection Pools.

### Selection of Bellwether Discovery Pools:

## **PI/SD Plaintiffs' Proposal:**

6 Sixty (60) days after the deadline for already-filed cases under the Personal Injury PFS  
7 Implementation Order, or approximately July 12, 2024, a total of 24 Personal Injury Plaintiff  
8 cases and 24 School District Plaintiff cases will be selected for the initial Bellwether Discovery  
9 Pools. For each Bellwether Discovery Pool, Plaintiff will select 8 cases, Defendant will select 8  
10 cases, and the Court will select 8 cases through a random selection process after excluding the 16  
11 cases selected by the Parties.

## Defendants' Proposal:

13 On March 29, 2024 [or 14 days from the PFS deadline for currently-filed cases, whichever  
14 is later], a total of 34 School District Plaintiff cases will be selected for the initial Bellwether  
15 Discovery Pool. On May 24, 2024 (or 14 Days from receipt of MDL Centrality aggregated PI  
16 PFS data for currently-filed cases, whichever is later), a total of 16 Personal Injury Plaintiff cases  
17 will be selected for the initial Bellwether Discovery Pool(s).

18 For the Personal Injury Bellwether Discovery Pool(s), Plaintiffs will select 4 cases,  
19 Defendants will select 4 cases, and the Court will select 8 cases through a random selection  
20 process after excluding the 8 cases selected by the Parties.

21 For the School District Bellwether Discovery Pool, Plaintiffs will select 12 cases,  
22 Defendants will select 12 cases, and the Court will select 10 cases through a random selection  
23 process after excluding the 24 cases selected by the Parties.

### Lexecon objection:

## Parties' Proposals:

26 Any Plaintiff selected for the Bellwether Discovery Pools who wishes to assert a *Lexecon*  
27 objection to their case being tried by the Court must file an objection in writing within **ten (10)**  
28 **days following selection of the Bellwether Discovery Pools.** If no objection is filed by the

1 deadline, a Plaintiff will be deemed to have waived any rights under *Lexecon* and to have agreed  
 2 to have their case tried by this Court. Likewise, within ten (10) days following bellwether  
 3 selection, Defendants must file any *Lexecon* objection(s) in writing with the Court or be deemed  
 4 to have waived any rights.

5 If an objection is asserted and counsel dispute that the objecting party has a right to assert  
 6 an objection under *Lexecon*, the Parties will immediately present the issue to the Court for  
 7 resolution. If the Parties do not dispute the objection or if the Court sustains the *Lexecon*  
 8 objection, then the claim will be deemed removed from the respective Bellwether Discovery Pool.  
 9 In that event, if the Plaintiff was a pick by one of the two sides, the side that made the pick will  
 10 have **three (3) business days** to select a replacement case of the same type as the case in which  
 11 the objection was served (i.e., personal injury case or school district/governmental entity case); if  
 12 the Plaintiff was randomly-selected, a randomly-selected replacement will be made of the same  
 13 type as the case in which the objection was served. *Lexecon* objections other than those for claims  
 14 selected for trial in this Court under the bellwether protocol are preserved. Thus, if a claim in the  
 15 respective Bellwether Discovery Pool is not selected for trial, then the Court will restore the  
 16 rights of the Plaintiff and Defendants in that claim to object to venue and jurisdiction in the  
 17 Northern District of California for purposes of trial.

18 Case-Specific Fact Discovery:

19 **PI/SD Plaintiffs' Proposal:**

20 Case-specific fact discovery of the Bellwether Discovery Pools may begin immediately  
 21 upon selection and will conclude on or before January 23, 2025, the date for close of all fact  
 22 discovery.<sup>2</sup> Fact discovery for each discovery pool case will consist of case-specific, non-  
 23 duplicative written discovery and case-specific depositions. Defendants shall be limited to four  
 24 (4) fact-witness individual capacity depositions for each Plaintiff case selected. The duration of  
 25 each deposition shall be in accordance with Fed. R. Civ. P. 30(d), except that for minor witnesses,  
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27 <sup>2</sup> Defendants propose a close of “core” fact discovery on January 23, 2025, with additional “non-  
 28 core” discovery continuing thereafter, while Plaintiffs propose that *all* fact discovery close on  
 January 23, 2025.

1 Defendants shall be limited to 3 hours of questioning; and for treating providers, Defendants shall  
 2 be limited to 5 hours of questioning. For School District Discovery Pool cases, Defendants may  
 3 notice up to 10 hours of depositions pursuant to Fed. R. Civ. P. 30(b)(6) in addition to the 4 fact-  
 4 witness individual capacity depositions.

5 **Defendants' Proposal:**

6 Core Discovery: Core discovery of the Personal Injury and School District Bellwether  
 7 Discovery Pools may begin immediately upon selection and will conclude on or before January  
 8 23, 2025. Core discovery for each discovery pool case may consist of case-specific, non-  
 9 duplicative written discovery, document discovery, third party discovery and case-specific  
 10 depositions.

11 For each Personal Injury Plaintiff case in the Bellwether Discovery Pool, Defendants shall  
 12 initially be limited to up to 6 depositions [or 30 hours of deposition questioning, with one  
 13 additional minute of questioning for every minute of follow-up questioning by Plaintiffs, if any].

14 For each School District Plaintiff case in the Bellwether Discovery Pool, Defendants shall  
 15 initially be limited to up to 8 depositions [or 40 hours of deposition questioning, with one  
 16 additional minute of questioning for every minute of follow-up questioning by Plaintiffs, if any].

17 For each School District Discovery Pool case, Defendants may notice up to 10 hours of  
 18 depositions pursuant to Fed. R. Civ. P. 30(b)(6) in addition to the fact-witness individual capacity  
 19 depositions.

20 The duration of each deposition shall be in accordance with Fed. R. Civ. P. 30(d), except  
 21 that for minor witnesses, Defendants shall be limited (absent a showing of good cause) to 4 hours  
 22 of questioning in single-Defendant cases (with an additional 1 hour for each additional Defendant  
 23 in multi-Defendant cases);<sup>3</sup> and for treating providers, Defendants shall be limited (absent a  
 24 showing of good cause) to 5 hours of questioning, in both cases with one additional minute of  
 25 questioning for every minute of follow-up questioning by Plaintiffs, if any.

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28 <sup>3</sup> Each "Defendant" for purposes of these limitations refers to each Defendant group (i.e., the  
 Meta Defendants, the TikTok Defendants, Snap, and the YouTube Defendants).

1           Additional fact and expert party and third-party discovery, including depositions, may be  
 2 taken of both PI and SD/GE plaintiffs selected for the Bellwether Trial Pools.

3           Selection of Bellwether Trial Pools:

4           **PI/SD Plaintiffs' Proposal:**

5           On January 24, 2025, each side shall simultaneously submit under seal to the Court a letter  
 6 not to exceed 12 pages identifying 12 cases from each of the Bellwether Discovery Pools that  
 7 they contend are representative bellwether trial cases, the basis for their selections, and if  
 8 appropriate, why the other cases are not representative or suitable bellwether trial candidates. The  
 9 Court will then select a total of 12 cases, in each pool to be set for initial bellwether trials.

10           **Defendants' Proposal:**

11           On February 6, 2025, after the close of "core" discovery of the Personal Injury and School  
 12 District Bellwether Discovery Pools, each side shall simultaneously submit under seal to the  
 13 Court a letter identifying 4 cases from the Personal Injury Plaintiff Bellwether Discovery Pool  
 14 that they contend should be stricken, and 4 cases from the School District Plaintiff Bellwether  
 15 Discovery Pool that they contend should be stricken. Non—"core" discovery of the Bellwether  
 16 Trial Pools may begin immediately upon the strikes being exercised. Non—"core" fact discovery  
 17 will conclude on or before April 10, 2025, and expert discovery will conclude on May 30, 2025.  
 18 Non—"core" fact discovery for each bellwether trial pool case will consist of case-specific, non-  
 19 duplicative written discovery, document discovery, third party discovery, and case-specific  
 20 depositions.

21           Selection of Bellwether Trials:

22           **PI/SD Plaintiffs' Proposal:**

23           The sequence of the trials, and determination of whether there may be a multi-plaintiff  
 24 trial, shall be deferred until the close of expert discovery.

25           **Defendants' Proposal:**

26           On June 2, 2025, each side shall simultaneously submit under seal to the Court a letter not  
 27 to exceed 12 pages identifying 5 cases from the Personal Injury Plaintiff Bellwether Trial Pool  
 28 and 20 cases from the School District Plaintiff Bellwether Trial Pool that they contend are

1 appropriate bellwether trial cases, the basis for their selections, and if appropriate, why the other  
 2 cases are not suitable bellwether trial candidates. The Court will then select a total of 5 Personal  
 3 Injury cases and 20 School District cases to be set for initial bellwether trials. The sequence of  
 4 the trials, and determination of whether there may be a multi-plaintiff trial, shall be deferred until  
 5 a time to be discussed further with all Parties and the Court.

6 **Expert Discovery:**

7 **PI/SD Plaintiffs' Proposal:**

8 Expert discovery for the Bellwether Trial cases may commence immediately upon the  
 9 Court's selection of the final 12 cases in each pool and must be completed by the close of expert  
 10 discovery on May 30, 2025. Plaintiffs shall serve reports for both general and case-specific  
 11 experts by February 27, 2025. Defendants shall serve expert reports for both general and case-  
 12 specific experts by March 27, 2025. Plaintiffs shall serve rebuttal reports for general and case-  
 13 specific expert reports by April 24, 2024. No expert shall be deposed until all expert reports are  
 14 exchanged.

15 **Defendants' Proposal:**

16 Expert discovery for the Bellwether Discovery Pool cases may commence immediately  
 17 upon selection of the cases in each pool and must be completed by May 30, 2025 (the Parties'  
 18 agreed expert discovery cutoff date). Plaintiffs' expert reports on non-case specific issues shall  
 19 be due on January 31, 2025; Defendants' expert reports on non-case specific issues shall be due  
 20 on February 21, 2025; and rebuttal reports on non-case specific issues shall be due on March 7,  
 21 2025. Depositions of those experts must be completed by March 28, 2025. Plaintiffs' expert  
 22 reports on case-specific issues shall be due on April 4, 2025; Defendants' expert reports on case-  
 23 specific issues shall be due on April 25, 2025; and rebuttal reports on case-specific issues shall be  
 24 due on May 9, 2025. Depositions of those experts must be completed by May 30, 2025.

25 **Replacement of Bellwether Cases:**

26 **PI/SD Plaintiffs' Proposal:**

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1           If a bellwether case is settled or dismissed prior to trial, the Parties shall meet and confer  
 2 to discuss whether the case should be replaced and, if so, how. The Parties should include that  
 3 issue on their proposed agenda for a case management conference at the appropriate time.

4           **Defendants' Proposal:**

5           For each case that Plaintiffs voluntarily dismiss after the case has joined the bellwether  
 6 trial pool, Defendants shall be entitled to replace each dismissed case with another case of  
 7 Defendants' choice. Following three voluntary dismissals and corresponding replacements, for  
 8 each case that Plaintiffs voluntarily dismiss after the case has joined the Bellwether Trial Pool,  
 9 Defendants shall be entitled to strike one case from the same bellwether pool within \_\_\_\_ days of  
 10 the entry of voluntary dismissal.

11           **Order of Trials:**

12           **PI/SD Plaintiffs' and State Attorneys General Plaintiffs' Position:**

13           The State Attorneys General Plaintiffs<sup>4</sup> and PI/SD Plaintiffs disagree as to which group of  
 14 Plaintiffs should be prioritized for the first bellwether trial at this juncture. Whenever the State  
 15 Plaintiffs' case is heard, the State Plaintiffs maintain their request that their case be heard as a  
 16 single case, rather than being disaggregated.

17           **Meta Defendants' Position:**

18           The Meta Defendants are the only Defendants in the currently-pending AG cases. Meta's  
 19 position is that it is premature to determine which case(s) will be prioritized for trial and whether  
 20 the State Plaintiffs' case (including the Florida Attorney General case and any other Attorney  
 21 General cases subsequently transferred to this MDL) will be heard as a single case or  
 22 disaggregated, and that these issues should be deferred until the close of expert discovery.

23           **Trial Schedule:**

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27           <sup>4</sup> Florida is not a party to the State Plaintiffs' joint complaint and is not at this time waiving its  
 28 right under *Execon, Inc. v. Milberg Wiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) to be  
 remanded to Florida Middle District court for trial.

The Parties attach their respective proposed bellwether case management schedules as **Exhibit A** (Plaintiffs' proposed schedule) and **Exhibit B** (Defendants' proposed schedule). The dates to which all Parties agree are highlighted. The Parties agree to the following dates:

Trial: September 22, 2025

## First Bellwether Trial Dispositive and Rule 702 Motions: June 27, 2025

## Oppositions to First Bellwether Trial Dispositive and Rule 702 Motions: July 18, 2025

## Reply Briefs to First Bellwether Trial Dispositive/Daubert Motions: August 1, 2025

Close of expert discovery: May 30, 2025

9           While the Parties disagree as to whether there should be a single set of deadlines for all  
10 expert reports (both general and case-specific) or two sets of deadlines (one for general and one  
11 for case-specific reports), the Parties agree that the sequence of all expert reports will be that  
12 Plaintiffs' expert reports shall be served, then Defendants' expert reports shall be served, and then  
13 rebuttal expert reports shall be served, with expert depositions occurring after all reports are  
14 served.

Respectfully submitted,

Dated: February 5, 2024

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## **ATTESTATION**

I, Lexi Hazam, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: February 5, 2024

By: /s/ Lexi J. Hazam  
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